

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

February 5, 2001
8:00 p.m.

Council Chambers
Bellevue, Washington

PRESENT: Mayor Mosher, Deputy Mayor Marshall, Councilmembers Creighton, Davidson, Degginger, Lee, and Noble

ABSENT: None

1. Call to Order

The meeting was called to order at 8:05 p.m. by Mayor Mosher, who presided.

2. Roll Call, Flag Salute

Upon roll call by the City Clerk, all Councilmembers were present. Cub Scout Den 1, Pack 600, led the flag salute.

(a) Presentation of Citizen Award for Merit

Fire Chief Peter Lucarelli described an incident in December in which the Fire Department responded to a house fire. Luke Bright, age 13, was alerted by a smoke detector in his home and discovered black smoke and fire in the laundry room. He then led his developmentally disabled older brother and sisters out of the house and called 911. On behalf of the Bellevue Fire Department, Chief Lucarelli presented a "Citizen Award for Merit" to Luke Bright in recognition of his composure, quick thinking, and responsible actions taken on December 30, 2000.

3. Communications: Written and Oral

- (a) Bob Witte, 17317 NE 143rd Street, Redmond, noted the upcoming Grammy Awards and the nomination of rap artist Eminem in several categories. He said Eminem's music celebrates physical and sexual abuse and promotes hatred and intolerance and requested the Council make a statement encouraging citizens to boycott the Grammy Awards.

4. Reports of Community Councils, Boards and Commissions: None.

5. Report of the City Manager

City Manager Steve Sarkozy announced the appointment of Ed Oberg, Finance Director, to serve as Interim Deputy City Manager. Gary Ameling will serve as Interim Finance Director.

Mr. Sarkozy noted the management brief in the Council packet reviewing 2000 development activity.

Jerome Roaché, Assistant City Attorney, will staff City Council meetings for the next four months.

6. Council Business

Councilmembers provided their reports in the earlier Study Session.

7. Approval of the Agenda

- ➡ Mrs. Marshall moved to approve the agenda, and Mr. Degginger seconded the motion.
- ➡ The motion to approve the agenda carried by a vote of 7-0.

8. Consent Calendar

Mr. Lee requested that item 8(h) be pulled for comment.

- ➡ Mrs. Marshall moved to approve the Consent Calendar, as amended, and Mr. Lee seconded the motion.
- ➡ The motion to approve the amended Consent Calendar carried by a vote of 7-0, and the following items were approved:
 - (a) Minutes of January 8, 2001 Extended Study Session
Minutes of January 16, 2001 Study Session
Minutes of January 16, 2001 Regular Session
Minutes of January 22, 2001 Extended Study Session
Minutes of January 29, 2001 Special Meeting with City of Issaquah
 - (b) Motion to approve payment of claims for the period ending January 25, 2001, and payroll for the period January 1 through January 15, 2001.
 - (c) Motion to reject the low bid as nonresponsive and award Bid No. 0038 for improvements to Bellevue City Hall heating, ventilating, and air conditioning systems in the amount of \$95,242 to Ramsett Mechanical Co., Inc., as the low responsive bidder.

- (d) Motion to award Bid No. 0105 for Larsen Lake trailhead facilities and cabin renovation at the Lake Hills Greenbelt, 14812 SE 8th Street, in the amount of \$187,874.98 to L.W. Sundstrom as low bidder. (CIP Project Nos. P-AD-34 and P-R-11)
- (e) Resolution No. 6503 authorizing execution of a contract with TERO Consulting Ltd. to provide professional services and software for the installation of a Resource Management Information System (RMIS) in the amount of \$149,060. (CIP Project No. P-AD-67)
- (f) Ordinance No. 5270 amending Ordinance No. 5269 annexing to Bellevue a 15.5-acre parcel located generally between Factoria Boulevard SE and SE Newport Way in the Factoria Subarea, commonly referred to as the Somerset View Annexation, to correct deficiencies in the legal description.
- (g) Ordinance No. 5271 regarding Firearms and Dangerous Weapons; amending Bellevue City Code Section 10.41.230, Aiming or discharging firearms; Bellevue City Code Section 10.41.270, Weapons apparently capable of producing bodily harm, carrying, exhibiting, displaying or drawing unlawful – Penalty – Exceptions; Bellevue City Code Section 10.41.280, Dangerous weapons; adding new Sections 10.41.250, Possessing dangerous weapons on school facilities – Penalty – Exceptions; and 10.41.260, Dangerous exhibitions; to the Bellevue City Code. *(These amendments will bring Bellevue City Code into conformance with state law.)*
- (i) Resolution No. 6504 authorizing execution of a consultant services agreement with CHS Engineers for engineering services for the 2001 Infrastructure Rehabilitation Project in the amount of \$116,000 funded through CIP Project Nos. D-64, S-24, W-16, and W-67.

Items for Council discussion:

- (h) Ordinance No. 5272 providing for “No Parking Anytime,” limited parking, and exceptions on sections of NE 2nd Street and 110th Avenue NE.

Mr. Lee said he spoke to staff regarding this ordinance and his concerns about downtown parking, and he is now prepared to approve the ordinance.

➡ Mr. Lee moved to adopt Ordinance No. 5272, and Mrs. Marshall seconded the motion.

➡ The motion to adopt Ordinance No. 5272 carried by a vote of 7-0.

9. Public Hearings

- (a) Continuation of the limited public hearing held October 2, 2000, and the supplemental Hearing Examiner’s recommendation (issued pursuant to City

Council's remand direction), on the Examiner's decision of August 11, 2000, on the Conditional Use Permit (CUP) application of Dan Vradenburg (Open Window School). File No. 99-2242-LB.

Mayor Mosher said the City Council is considering an appeal of the Hearing Examiner's Decision approving the Conditional Use Permit (CUP) application of Dan Vradenburg (Open Window School). The applicant proposes to establish a private school for a maximum of 315 students and 40 teachers, administrators, and support staff at the intersection of SE 60th Street and 168th Place SE.

Mr. Mosher recalled that the appeal was heard by the City Council on October 2, 2000. Council remanded the matter back to the Hearing Examiner to gather additional evidence on issues relating to the applicability of the Traffic Standards Code and consistency with the Comprehensive Plan. On December 14, 2000, the Hearing Examiner issued a Recommendation that the appeals of Cougar Mountain Residents Association, Peter Frame, and Marc C. Gregoire be denied and the CUP be approved subject to the conditions imposed in the decision of the Examiner dated August 11, 2000.

Lori Riordan, Assistant City Attorney, reviewed the rules for the limited public hearing. The limited public hearing is on the remand of the appeal from the Examiner's decision that the application be approved with conditions. As a limited public hearing, the matter is confined to issues remanded to the Hearing Examiner and to the record before the Examiner on those issues. Only the parties to the appeal or their representatives may participate in the hearing. The parties to this appeal are the appellants, Peter Frame, Mark Gregoire, and the Cougar Mountain Residents Association; the applicant, Dan Vradenburg, Chair of the Board of Trustees of Open Window School; and the respondent, City of Bellevue Department of Planning and Community Development.

After the Council opens the hearing, the appellants will have an opportunity to present oral argument based on the record. The appellants will have a total of 20 minutes for argument. If they wish, a portion of that time may be reserved to be used for rebuttal after the conclusion of the respondent's presentation. After opening argument by the appellants, the respondents will have 20 minutes to respond, after which the appellants may argue in rebuttal if time has been reserved for that purpose.

The Council may ask questions of any party, staff, or the audience about any matter contained in the record. New material not contained in the record made before the Hearing Examiner may not be presented. After all argument is presented and after the Council has asked any questions it may have, the Council will have the opportunity to deliberate and render a decision on the appeal based upon the record of the prior proceedings and the record made as a result of the remand.

The Council may grant the appeal or it may grant the appeal with modifications, if the appellants have carried the burden of proof and the Council finds that the decision of the Hearing Examiner is not supported by material and substantial evidence. In all other cases, the appeal shall be denied. In granting an appeal in whole or in part, the Council may remand the matter to the Hearing Examiner for further proceedings or may continue the matter for further review and

analysis. The Council shall accord substantial weight to the decision of the Hearing Examiner granting the Conditional Use Permit with conditions.

Dr. Davidson said that although he was not a Councilmember when this matter originally came before Council on October 2, 2000, he does plan to participate in the decision on this appeal. In order to be eligible to participate in the decision, a Councilmember must have reviewed the record for all prior proceedings related to the appeal. Dr. Davidson said he reviewed all material submitted to Council for the October hearing and viewed the video tape of that appeal hearing. He reviewed written materials submitted for this evening's hearing and is fully conversant with all of the issues pending in the appeal.

Planning and Community Development Director Matt Terry summarized the Hearing Examiner's conclusions regarding traffic impacts and other issues. Mr. Terry said the two general issues raised in Council's remand to the Hearing Examiner were: 1) whether the proposal is consistent with the Comprehensive Plan, and 2) whether the traffic impacts have been fully disclosed and addressed. The Hearing Examiner considered the matter in a remand hearing on December 14 and the Examiner's findings have been forwarded to Council.

Mr. Terry said the issue regarding consistency with Comprehensive Plan policies was raised by the appellants in Mr. Frame's appeal letter dated January 31, 2001. The Hearing Examiner addresses this concern on pages 5 and 6 of his report. The appellants assert that specific policies in the Newcastle Subarea Plan preclude the location of the school as proposed. The appellants argue that the 1995 Lakemont Land Use Study, which established lower residential densities as you move away from the village center, would preclude the location of the school on the proposed site. The Examiner concludes that the village plan for the Newcastle Subarea cannot be used to specifically impose requirements for the subject site. The Examiner notes that Subarea Plan Policy 69, which guided the development of the Lakemont Center, cannot be used to preclude schools from locating elsewhere in the subarea. The Examiner references Policy 131 which encourages but does not require the location of schools in the village center. The Hearing Examiner notes that schools are allowed as a conditional use in all residential zones, but they require a finding by the Council that the decision criteria for the conditional use can be met in each instance.

Mr. Terry said the Hearing Examiner addressed traffic impacts throughout his report. The appellants contend that the proposed location of the school is fundamentally incompatible with the surrounding residential uses because of the traffic impacts the use will create. The Hearing Examiner addresses these concerns on pages 9 and 10 of his report and concludes that the transportation impacts will be addressed in a manner that meets the decision criteria before Council for the conditional use.

Mr. Terry noted questions raised by Council in the October hearing and indicated where the Hearing Examiner addressed these issues in the record. With respect to the City's concurrency ordinance, questions were raised about whether all of the school's operations, including after school activities, were included appropriately in the analysis. Mr. Terry referred Council to Exhibit 3 (pages 4 and 5 of the second volume of the Examiner's report) for documentation of a revised traffic analysis completed by the Transportation Department. This analysis changes the

conclusions reached in the earlier report regarding the number of trips that would be generated by the school. The number goes from 28 to 80 p.m. peak hour trips. However, Mr. Terry said the proposal still complies with the City's concurrency test.

Mr. Terry said Exhibit 3 also addresses questions regarding off-site impacts. A capital improvement project on Cougar Mountain Way was included as an assumption in the transportation analysis. The project is scheduled for completion in 2004 and includes sidewalks, bike lanes, channelization of the roadway, and lighting. Transportation staff feel this project will correct any existing deficiencies on the site and provide a safe environment for traffic using the street to get to and from the school.

Mr. Terry said Council questioned the need for a traffic signal at Lakemont Boulevard and 164th Avenue SE. The record shows that the signal is not currently planned as part of the Cougar Mountain Way project because it does not currently meet warrants. The record shows that existing traffic volumes along with the proposed project would bring the intersection close to the warrant threshold. Because the signal does not meet warrants, the Hearing Examiner concluded that the City lacks authority to impose a condition that would require the signal to be constructed or to require a pro rata contribution toward the signal. Mr. Terry said the applicant volunteered to pay \$5,000 toward the cost of a traffic signal should one be installed by the City. The Transportation Department is beginning the scoping process for the Cougar Mountain Way project and will be entertaining comments from the community about whether a signal should be included in the project.

The Transportation Department found no identifiable adverse impacts that would create safety problems for pedestrians in the area around the school. Mr. Terry said current volumes on Cougar Mountain Way are approximately 3,200 trips per day. The school project will add 800 trips per day. Mr. Terry said a total of 4,000 trips per day is consistent with traffic volumes assumed for a road of this classification.

Mr. Terry said the record demonstrates the school will start with 175 students and grow to 315 students over a period of seven years. The maximum traffic generation described in the transportation analysis assumes 315 students, which will occur after the Cougar Mountain Way capital project is completed.

Regarding Council's question about enforcement of the inclement weather and transportation management conditions imposed by the Examiner, Mr. Terry said the City would enforce these conditions. The inclement weather plan is discussed in the appeal hearing transcript on pages 127-129. It notes that Cougar Mountain Way is a primary snow removal route. Mr. Terry said the issue of bus service is explored in the record and he referred Council to pages 88-92 and 95-96 of the transcript. There is no current Metro service to the site and the school questioned whether it is appropriate to place elementary school students on a public bus alone.

- ➡ Mrs. Marshall moved to open the limited public hearing, and Mr. Degginger seconded the motion.
- ➡ The motion to open the limited public hearing carried by a vote of 7-0.

Appellants

Peter Frame, 18601 SE 65th Place, Issaquah, president of the Cougar Mountain Residents Association, spoke as an individual appellant. He introduced Jo-Ellen Smith, an officer and director of the Association. Mr. Frame indicated they would like time for rebuttal if available after they complete their initial arguments.

Ms. Smith, Treasurer for Cougar Mountain Residents Association, said the Association requests that the application for a conditional use permit by Open Window School be denied. She asked that the Hearing Examiner's recommendation be overruled by City Council. Ms. Smith said the Conditional Use Permit application is not consistent with the Comprehensive Plan and the conditional use will not be served by adequate public facilities, specifically streets. She said the Association represents an area from Lakemont Boulevard along Cougar Mountain, SE Cougar Mountain Drive, and the SE 60th corridor. The Association has been financially supported by more than 85 households during the appeal, as well as other resident associations such as Lakemont Woods Association. Residents do not want a school at the proposed location.

Ms. Smith said the Association has a long history of appearing before Council regarding density and intensity of use issues. In 1995, the residents' arguments were recognized by Council and resulted in the compromise zoning that keeps high density and high intensity uses at lower elevations and low intensity at higher elevations of Cougar Mountain. Subsequent and recent zoning decisions by Council have supported low density and low intensity uses at the higher elevations. Ms. Smith said Mark Gregoire and Peter Frame will summarize the key points of the appeal. She said six policies from the Newcastle Subarea Plan with which the Conditional Use Permit is not consistent are cited in the appellants' testimony. In the remand hearing, Ms. Smith said City staff could not refute these six points. She said the Examiner has tried but failed to do so in his report. The Examiner cited other, more general, policies regarding land use to support the Open Window School application. She said the appellants' contentions still stand.

Ms. Smith recalled that Council asked the Hearing Examiner to answer a number of questions regarding intensity and density, consistency with the Comprehensive Plan, and traffic considerations and mitigation. The appellants asked Council to consider whether these questions have been dutifully, clearly, and completely answered to the Council's satisfaction. She questioned whether the answers provided by the Examiner meet the necessary standards of City ordinances governing approval of the Conditional Use Permit. The appellants believe they do not.

Mr. Gregoire refuted the Hearing Examiner's conclusions regarding the safety of the area's roads, the extent of the weather effects, the ability of Open Window School parents to safely navigate the roads, and the resulting safety of homeowners and school children. He said the Examiner's report minimized the weather and road effects and concluded, "Persons destined for this site can avoid SE 60th and Kline Hill Road if they find it too difficult. Snow and ice may be a problem but for only a few times each year, and the school can cope with these conditions." Mr. Gregoire said the Examiner does not have the credentials to make these conclusions. He said many residents on Cougar Mountain do have the experience and credentials and have shared this information in sworn testimony with the Hearing Examiner. Mr. Gregoire cited heavy

rainfall, fog, wet snow, wind, curving narrow roads, numerous driveways, and limited sight distance. He was trained in meteorology as a jet fighter pilot in the U.S. Air Force and flew safely in weather conditions all over the world. He has designed and tested Boeing aircraft in a variety of weather conditions. He said his accumulated knowledge and experience make him an active student of climate.

After living on the top of Cougar Mountain for 42 years, Mr. Gregoire is well acquainted with the unique roadway and climatic conditions of the area. He said the appellants have provided the Hearing Examiner with detailed topography maps, roadway photographs, snow and ice photographs, and accident statistics. He said the roads are hazardous and become more so with increased traffic. He said Cougar Mountain Way has already reached a safety design limit of 4,000 traffic movements per day and the 1,100 movements per day of the Open Window School will exceed safety standards. Mr. Gregoire said Kline Road and SE 60th have never been safe roads. He said Issaquah Elementary School was attempted in the 1970s at the 1,000 foot altitude level, and it was abandoned after one year due to weather and the roads. In the 1960s, the Army Nike site on the top of the mountain requested and received the only snow plow in King County. He said the terrain and weather conditions are unique to Bellevue. Mr. Gregoire said there is no community benefit in permitting students commuting by private vehicle from outside the community. He said they will endanger themselves and the Cougar Mountain community.

Mr. Gregoire asked Council to protect the community and deny the permit. He said the 1,100 traffic movements per day is equivalent to an R-14 zoning.

Mr. Frame referred to the Hearing Examiner's August and December reports. He asked whether the Examiner has addressed Council's questions. The appellants feel the questions have not been answered. He noted that the eight hours of testimony from the remand hearing is contained in the complete transcript.

Mr. Frame summarized the appellants' position. The applicant has argued that many mitigating measures have been provided to substantially lessen impacts on local streets. He asked Council to review those measures on page 11 of the Examiner's report. He listed items from the report: small student population, staggered dismissal when 250 students are enrolled, separate ingress and egress, generous on-site parking, control of school-related traffic, satisfaction of concurrency requirements, and protecting wetlands. Mr. Frame said the specifics of these policies, and conditions agreed to by the school, offer nothing with respect to off-site traffic. He said the school will encourage car pooling but will not utilize transit. He questioned why the school cannot provide bus transportation for its students.

Regarding traffic counts, Mr. Frame said the school generates 80 trips during the 4:00-6:00 p.m. peak period. He said this concerns not just concurrency but SEPA (State Environmental Policy Act) impacts. Mr. Frame said the peak hour for the school occurs before 4:00 p.m., when 391 cars will be on neighborhood roads. He said the a.m. peak hour will experience similar traffic, as will evening events. Mr. Frame said that equates to one car every 10 seconds for an hour. He said no mitigation measures have been imposed to address this.

Turning to the Comprehensive Plan, Mr. Frame questioned how this proposal ever got as far as it did. He referenced the appellants contentions on pages 5 and 6 of the Examiner's report. Policy SNC 69 requires that the community's business, professional/office, educational, and civic uses are concentrated in the village center. Mr. Frame said the policies specify and address issues related to educational uses and school sites. He said schools are not discussed in the Examiner's report until page 7, which refers to insuring residents have to travel no farther than is reasonably necessary from their homes to neighborhood shopping, professional services, limited office, and civic uses such as schools. Mr. Frame said the Open Window School is a regional school with students from the Eastside and possibly Seattle.

Mr. Frame disagreed with the Examiner that there is no village proposal contained in the Newcastle Subarea Plan. Mr. Frame said there is a village concept, which he also calls the Lakemont Master Plan Community. He said there is a village center, which was acknowledged by City staff. Mr. Frame said when staff was asked if the proposed school site is located in a village center, staff responded that "it could be." He said the proposed school site is not located in a village center.

Mr. Frame feels the applicant had a duty to convince Council and staff that the school is an appropriate use and meets the five Conditional Use Permit criteria. He said the appellants have been treated as if they are on the defense and as if it is their job to prove the school does not belong. He feels they have done a good job of showing this. He said the applicant has not provided any significant mitigation that should cause Council to approve the school in the proposed location.

City Clerk Myrna Basich noted the appellants have 2 minutes and 38 seconds remaining, which can be used for rebuttal comments.

Applicant

Linda Youngs, Hanson Baker Ludlow Drumheller, 10777 Main Street, represented the applicant, Open Window School. She asked Council to affirm the Hearing Examiner's recommendation. The Examiner considered the matter twice and twice recommended approval of the Conditional Use Permit application. Ms. Youngs said Open Window School is a private elementary and middle school to be located on 7.5 acres at SE 60th Street and 168th Place SE. She said the school will not bring any undesirable uses to the community, yet the reaction of residents has been a classic "not in my back yard" type of reaction.

Ms. Youngs said the school has been designed to be compatible with the site and the buildings are at residential height, 30 feet. When the property was annexed into the city in 1999, a representative of Open Window School testified before Council that the annexation parcel was intended to be occupied by the school.

Ms. Youngs reviewed the five criteria for a Conditional Use Permit: 1) compliance with Comprehensive Plan, 2) compatibility and character, 3) presence of adequate public facilities, 4) not materially detrimental to community, and 5) compliance with Bellevue City Code. Regarding the adequacy of public facilities, Ms. Youngs said when this project went before

Council in October, the Council and residents raised a question about compliance with concurrency. She said there was a mistake in the initial transportation analysis that went undetected by any of the parties before the Hearing Examiner and it was determined that a concurrency analysis was needed. She said the estimate of 28 trips during the p.m. peak period was a miscalculation. The analysis was reviewed and all after school activities, including an assumption that soccer would be played every day, were counted, resulting in 80 p.m. peak period trips. Ms. Youngs said City staff determined there were no impacts under the City's traffic plan. She said the project therefore meets concurrency.

Ms. Youngs said there is no evidence that the roads cannot absorb the amount of traffic to be generated by the school. She said planned improvements to Cougar Mountain Way will provide adequate public facilities. The appellants' letter characterizes the applicant's statement that 10-12 percent of the school's students would use Kline Hill Road as "conjecture." Ms. Youngs noted that evidence supporting this statement was provided in the first hearing before the Examiner. She referenced Exhibit 2 (page 76), the Walchli testimony, and the transcript (page 488). The report shows that 10-12 percent of the children live east of the school and would likely travel on Kline Hill Road. She feels parents are qualified to make safe driving decisions to access the school.

Ms. Youngs said the school reviewed suggestions regarding vanpools. She said many parents would be reluctant to place their children on a bus that is not an official school bus. She said providing such transportation is prohibitively expensive. Metro does not allow private organizations to use Park and Ride lots for picking up riders. Ms. Youngs added it would not be safe to allow young children to wait in Park and Ride lots by themselves. Metro does not allow children to ride without a parent in Metro vanpools.

Ms. Youngs said the project meets concurrency despite the fact that it will generate more traffic. She said tonight the appellants criticized the applicant for calculating traffic counts between 4:00 and 6:00 p.m. However, at the first hearing before Council, the appellants suggested that counting after school trips was not appropriate and that travel during the peak p.m. period should be counted.

Ms. Youngs said the Examiner concluded the project "fully complies" with the Comprehensive Plan. When the appellants first went before Council, they said the applicant did not comply because the school did not meet the traffic elements. At the remand hearing, the appellants said the applicant does not comply because the proposed school location is not in the village center. In the appellants' statement to Council, they argue that Cougar Mountain is a residential area and should not include schools. Ms. Youngs said there are no regulations or laws that say school provisions only apply to public schools. She said it is not fair to single out this school because it is a private school. Schools are allowed in all residential areas, provided they meet the criteria of a Conditional Use Permit.

Regarding the village concept, Ms. Youngs referenced Nicholas Matz's testimony on pages 16-19 of the remand hearing transcript. When asked about the village plan, Mr. Matz explained that the villages were an old concept from the early 1980s that were never implemented. When Newcastle became a city, one of the village areas became segregated from the rest of the

mountain. She said the village concept has been used to control development in the area. Ms. Youngs said the Examiner concluded that schools are not required to be located in the village core.

Ms. Youngs said the project meets Comprehensive Plan criteria. The school is committed to being a good neighbor and will not allow non-school meetings in the evenings. The school will advise the community of its schedule and establish staggered dismissals. Concurrency has been calculated on a worst-case basis, which still does not trigger a concurrency concern. Ms. Youngs said the school has offered to pay \$5,000 toward the installation of a traffic signal if one is required within six years of the issuance of building permits.

In response to Mr. Frame's comments about SEPA impacts, Ms. Youngs said a Determination of Non-Significance was issued on the project and this determination was not appealed. She said SEPA issues are not before Council at this time.

Ms. Youngs said the school's traffic analysis demonstrates less than 1,000 trips per day to be generated by the school, which is less than other estimates. She urged Council to approve the school which she feels will benefit the community and not cause any negative impacts. She noted that Linda Walchli, traffic engineer, and Michael Aippersbach, a planning consultant, were in the audience to respond to Council's questions.

Appellants

Mr. Frame said they are not adopting a "not in my back yard" position. He said residents cautiously supported the school initially. He referred Council to prior testimony regarding snow days. He said most of Bellevue represents higher priorities for snow routes than the Cougar Mountain area. He said if the applicant cannot mitigate transportation problems by using vanpools or other measures, the school should not be located in this area.

Mr. Frame said he was the original President of the Board of Trustees for Open Window School and he is fond of the school. However, the school's mission should not be served on the most remote location on Cougar Mountain. He feels it would be more appropriate to select a regional location or village center.

Mr. Frame said there is no disagreement that the school would generate 1,000 trips per day. He is concerned that 390 trips would occur between 3:15 and 4:15 p.m., which just misses the City's concurrency test.

Mayor Mosher informed Mr. Frame that his time had expired.

Applicant

Ms. Youngs said Mr. Frame misquoted her. She did not say car pooling was not possible. In fact it is widely used by students' families. The school feels that car pooling is the most effective and feasible transportation option.

➡ Mrs. Marshall moved to close the limited public hearing, and Mr. Lee seconded the motion.

➡ The motion to close the limited public hearing carried by a vote of 7-0.

In response to Mr. Lee, Mr. Terry said the proposed site for the school is currently zoned R-1, which would allow low density single-family development. He said approximately 3,200 cars use Cougar Mountain Way per day and the record indicates an additional 980 daily trips would be generated by the school. He said 4,000 trips is typical for a roadway of this classification.

In response to Mr. Degginger, Mr. Terry said the school would provide approximately 150 parking stalls occupying 56,000 square feet of the site or just over an acre. In further response, Linda Walchli said Open Window School's dismissal times will occur between 3:20 and 3:50 p.m. Based on last year's schedule, Cougar Ridge Elementary School dismisses students between 3:35 and 3:45 p.m., but the times change every year. Responding to Mr. Degginger, Wilder Dominick, Head of the Open Window School, said the child care provided by the school is an extended day program for students. During the summer, child care is open to the public for six weeks. In further response, Ms. Walchli said classes start at Open Window School at 9:00 a.m.

Mr. Degginger asked Mr. Terry to comment on Mr. Matz's testimony in the record regarding the village concept. Mr. Terry said the village concept is not expressed specifically in any of the City's policies or Comprehensive Plan.

In response to Mrs. Marshall, Mr. Terry confirmed that a Traffic Standards Code analysis is required if a proposal generates more than 30 peak p.m. period trips. Mrs. Marshall noted that three intersections in the area currently operate at Level F, which Mr. Terry confirmed to be the lowest level of service. Chris Dreaney, Transportation Development Review Manager, said the project does not cause intersections in the applicable mobility management area (MMA) to fail concurrency.

In further response to Mrs. Marshall, Mr. Terry said the City could not impose upon the school construction of a traffic signal or payment toward a signal as a condition of approval. He said the City can accept the applicant's voluntary contribution toward a traffic signal, however.

In response to Mr. Noble, Ms. Dreaney said the number of signalized system intersections exceeding level of service standards has not failed concurrency standards. In further response, Ms. Walchli confirmed that approximately 357 trips would occur to and from the school between 3:00 and 4:00 p.m.

In response to Mr. Lee, Ms. Riordan said the burden is on the appellants to show Council that the Hearing Examiner's decision and recommendations are not supported by substantial evidence in the record. She said Council is legally bound to accord substantial weight to the Hearing Examiner's decision. She said Council could impose additional conditions supported by substantial evidence. If Council were to deny the appeal, Council could modify the Conditional Use Permit by adding a requirement that the applicant pay \$5,000 toward a traffic signal.

Mr. Terry noted a finding on page 76 of the Examiner's report that the proposed school site will be adequately served by all public and private utility services. He said this report is reviewed by all City departments including the Fire Department, and no issues were raised at the time the report was published.

- ➡ Mr. Creighton moved to deny the appeal and approve the Conditional Use Permit (CUP) application of Dan Vradenburg (Open Window School) as recommended by the Hearing Examiner. Dr. Davidson seconded the motion.

Mr. Creighton said bad weather is not a sufficient reason to not place a school at the proposed site. He said although he shares some concerns expressed in this matter, he feels Council has no choice but to approve the application based on the record and the strict guidelines given to Council in making a decision.

In response to Mrs. Marshall, Mr. Terry said Council does have the flexibility to impose a voluntary contribution of \$5,000 toward a traffic signal within six years of issuance of the building permits.

- ➔ Mrs. Marshall moved to amend the motion to impose an additional condition of the voluntary contribution of \$5,000 by the applicant toward the installation of a traffic signal at the intersection of Cougar Mountain Way and Lakemont Boulevard, within six years from the issuance of building permits for the school facility. Mr. Lee seconded the motion.

Mr. Lee said Council is in favor of keeping low density development in the higher elevations. He expressed support of the application and the amendment as a way to ensure that the traffic impacts will be addressed.

- ➔ The amendment to impose an additional condition of the voluntary contribution of \$5,000 by the applicant toward the installation of a traffic signal carried by a vote of 7-0.

Mr. Degginger said he will not be supporting the main motion. He feels the requirements for a Conditional Use Permit have not been met. Specifically, he said a school at this location is not consistent with the Comprehensive Plan. Mr. Degginger said the Land Use Element of the Comprehensive Plan contains a clear statement regarding Bellevue's residential focus. Policy LU-16 states that the City must maintain stability and improve the vitality of residential neighborhoods through adherence to and enforcement of the City's land use regulations. Mr. Degginger said schools are allowed in residential areas to provide services to the local community and its residents. He said this application represents a regional school that is not intended to serve the immediate neighborhood.

- ➡ Mrs. Marshall moved to extend the meeting to 11:00 p.m., and Mr. Lee seconded the motion.

- ➡ The motion to extend the meeting carried by a vote of 7-0.

Mr. Degginger said the record states that at full buildout of 315 students, only five of 239 families served by the school will live in the neighborhood. He discussed concerns regarding neighborhood stability and vitality, traffic, and public safety. He said the proposal is incompatible with the subarea plan and does not meet the requirements of the Comprehensive Plan. He also pointed out that according to the traffic analysis, the heavy volume of morning and afternoon trips will occur at the same time that the neighborhood's children will be walking between bus stops, homes, and Cougar Ridge Elementary School. This overlapping of the school populations will present significant safety problems.

Mrs. Marshall concurred with Mr. Degginger's comments and said she will not be supporting the motion.

Mr. Noble feels the school is compatible with the Comprehensive Plan. He said if this were a public school, he does not think its location would be an issue. Mr. Noble said the fact that it is a private, regional school does not lead him to conclude that it does not meet Comprehensive Plan requirements. He is concerned about increased traffic related to the school's location and the ability of existing traffic facilities to support such development.

With no one else wishing to speak, Mayor Mosher called for Council to vote.

- ➡ The motion to deny the appeal and approve the Conditional Use Permit (CUP) application of Dan Vradenburg (Open Window School) as recommended by the Hearing Examiner failed by a vote of 3-4, with Mayor Mosher, Mr. Creighton, and Dr. Davidson in favor.

10. Land Use

- (a) Ordinance No. 5273 regarding the application of Allen Lang for approval of a 4.17-acre plat located at 15419 SE 16th Street, adopting the findings and conclusions of the Hearing Examiner, and approving the application with conditions.
(Proposal is subject to the East Bellevue Community Council's approval or disapproval following the City Council's decision.)

Cristina Van Valkenburgh, Land Use Director, noted the memo in Council's desk packet regarding staff's recommendation for additional conditions to the preliminary plat application of Allen Lang.

- ➡ Mrs. Marshall moved to adopt Ordinance No. 5273 with the following conditions:
 1. The Plat Engineering plans submitted during Final Plat approval shall show the proposed 20-foot wide walkway easement along the south property line, from SE 18th Street to 156th Avenue SE.
 2. The 20-foot walkway easement along the south property line, between SE 18th Street and 156th Avenue SE, shall be dedicated to the City of Bellevue upon recording of the Final Plat.

Mr. Noble seconded the motion.

- ➡ The motion to adopt Ordinance No. 5273, with the conditions stated, carried by a vote of 7-0.

11. Other Ordinances, Resolutions and Motions

- (a) Resolution No. 6505 adopting the Local Transportation Vision and directing staff to pursue its implementation.

- ➡ Mr. Lee moved to approve Resolution No. 6505, and Mrs. Marshall seconded the motion.

Kris Liljeblad, Assistant Director for Transportation Planning, introduced the City's consultants, Pat Serie and Amy Grotefendt with EnviroIssues. He recalled the community's involvement in the City's development of the Local Transportation Vision which addresses arterial streets, pedestrian/bicycle facilities, transportation demand management, and environmental issues.

Allison Dobbins, Senior Planner, reviewed revisions to the Local Transportation Vision since it was last discussed with Council. References to the Blue Ribbon Commission's recommendations and maintaining control of City streets have been added. Additional revisions include better coordination of projects between City programs and consistency of mitigation measures with neighborhood character. Ms. Dobbins said it may be necessary to revise the Comprehensive Plan during the 2002 update process to better reflect the Local Transportation Vision.

Deputy Mayor Marshall recalled that Council adopted a Regional Transportation Vision in 1999. She is pleased that Council will be adopting a Local Transportation Vision with a neighborhood emphasis. She thanked staff and the public for participating in the 17 community meetings held to discuss and develop the Vision.

In response to Mr. Noble, Ms. Dobbins said staff is working to revitalize the One Less Car program. Mr. Lee is pleased with the Vision statement as revised.

In response to Mr. Creighton, Mr. Liljeblad said the City provides secure parking for bicycles at many locations. Staff will make sure all City facilities provide secure bicycle parking. In further response to Mr. Creighton, Transportation Director Goran Sparman said the statement on page 11-5 acknowledges that larger arterials are expected to handle some regional trips.

- ➡ The motion to approve Resolution No. 6505 carried by a vote of 7-0.

12. Unfinished Business: None.

13. Continued Oral Communications

- (a) Bernie Goddard, 802 108th Avenue SE, thanked Council for its action on the CUP application of Open Window School and for following the Comprehensive Plan.

14. New business: None.
15. Executive Session: None.
16. Adjournment

At 10:28 p.m., Mayor Mosher declared the meeting adjourned.

Myrna L. Basich
City Clerk

kaw